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COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
BY DEPUTY

STATE OF WASHINGTON COURT OF APPEALS
DIVISION II

pm 11-14-08

JOHN T. HOBBS # 815136)	
PETITIONER)	
-V-)	COURT OF APPEALS
STATE OF WASHINGTON)	# 37471-4-II
DIVISION II)	
RESPONDENT)	

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INeffective ASSISTANCE OF COUNSEL

STRICKLAND V. WASH, SOLED 2D 674 (1984)
THE SIXTH AMENDMENT OF the U.S. CONSTITUTION GUARENTEES, THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL PROSECUTIONS.

McMANN V. RICHARDSON 397 U.S. 749 (1970)
CUYLER V. SULLIVAN 466 US. 335 (1980)
THE UNITED STATES SUPREME COURT ESTABLISHED A TWO PRONG TEST WITH WHICH to EVALUATE INeffective ASSISTANCE OF COUNSEL CLAIMS;
(1) THAT COUNSELS DEFICIENT PERFORMANCE PREJUDICED the DEFENDANT RESULTING IN AN UNRELIABLE OR FUNDEMENTIALLY UNFAIR OUTCOME OF THE PROCEEDINGS.

ARGUMENT #I

CONSTITUTIONAL right to EFFECTIVE ASSISTANCE OF COUNSEL has been VIOLATED, BASEDON (4) INFERENCES OF CRITERIA (1) THE TIME AFFORDED FOR INVESTIGATION AND PREPARATION, (2) The COMPLEXITY OF POSSIBLE DEFENCES (3) THE ACCESSIBILITY OF MOTIONS TO THE COURT. (4) CR. La § 46.6

DENIAL OF COUNSEL inherent UNFAIRNESS, ESSENTIALLY; The presumption that COUNSEL'S ASSISTANCE IS ESSENTIAL REQUIRES the CONCLUSION that a trial is UNFAIR IF the ACCUSED is denied COUNSEL at a CRITICAL STAGE of TRIAL; Similarly, IF COUNSEL ENTIRELY FAILS to subject the PROSECUTIONS CASE to MEANINGFUL ADVERSARIAL TESTING, then there has BEEN A DENIAL OF SIXTH AMENDMENT Rights that MAKES the ADVERSARY PROCESS ITSELF presumptively UNRELIABLE.

<u>IN RELATION to INFERENCES:</u>

(1) Verbatim REPORT OF PROCEEDINGS November 19, 2007 pg. 16 Line 16-20. ON the 9th, which WAS the compliance DATE, there WAS NO NOTICE to the STATE OF WITNESSES OR ANY STATEMENTS PROVIDED to the STATE IN REGARDS to what they HAD INDICATED to the DEFENCE. MR. BYRD then WENT TO CANCUN, Mexico. (2) R.C.W. 46.12.181 ORIGINAL TITLE / CERTIFICATE OF OWNERSHIP WAS Replaced by the

DEPT. THUS UNDER this R.C.W. the DEPT. COULD PROVIDE the ORIGINAL CERTIFICATE OF OWNERSHIP to the DEFENCE ATTORNEY INSTEAD AN UNLEGIBLE AND UNCERTIFIED COPY WAS PROVIDED BY the PROSECUTOR AS EVIDENCE IN THE COURTROOM, WHICH FURTHERED the PREJUDICE OF DEFENDANT, AND the MISCARRIAGE OF JUSTICE BY ALL PARTIES, BOTH THE DEFENSE ATTORNEY, AND the PROCECUTOR COLLABORATED IN ALLOWING SUCH ABSURD EVIDENCE TO FURTHER THE MISCONDUCT, AND MISREPRESENTATION OF BOTH ATTORNEYS, PURSUANT to R.P.C. 8.4 (C) (d) VERBATIM REPORT OF PROCEEDINGS, NOVEMBER 19, 2007 Pg. 22 LINES 14-21. MRS, CAMACHO TRADED the TITLE to DEPT. OF LICENSING ON SEPTEMBER 28, 2007, V.b.R. Pg. 17 LINES 15-22, "ONE OF the PROBLEMS I HAVE, YOUR HONER, IS ITS NOT A CERTIFIED COPY, WE DIDNT KNOW WHETHER OR NOT THE COURT WAS GOING

TO ALLOW US TO ADMIT IT. WE CERTAINLY WANTED TO SECURE A CERTIFIED COPY WHICH WOULD PROVE THAT THE TITLE WAS TURNED IN BY THE CAMACHOS AND WE HAVENT BEEN ABLE TO DO THAT WITHIN THE TIME ALLOTED". QUESTION FOR ARGUMENT: WHY HASNT D.O.L. FAXED A CERTIFIED TITLE; CERTIFICATE OF OWNERSHIP TO THE DEFENCE ATTORNEY OR THE PROSECUTOR?

(3) THE ACCESSIBILITY OF MOTIONS AND OBJECTIONS IN COURT Vb. R. 11-19-07 PGS. 31-32 LINES 7 TO 7, MR. BYRD: TO DEFENDANT: "YOU CAN MAKE YOUR RECORD. THE DEFENDANT; MYSELF? MR. BYRD: CORRECT. MR. BYRD THATS ENOUGH SIT DOWN, SIT DOWN." QUESTION FOR ARGUMENT: I ASKED MR. BYRD TO MOVE FOR DISMISSAL, FOR VIOLATION OF MY 60 DAY, RIGHT TO A SPEEDY TRIAL. HE SAID MAKE YOUR RECORD; YOURSELF? Vb. R 11-19-07 PGS. 35-37 LINES 24-8: "I'M NOT GOING TO OBJECT YOUR HONOR",

Pg 36 Line 2: "THE DEFENDANT: "please do object; Pg 37 Line 8 competency evaluation and speedy trial stops. (4) Defence Attorney did not motion for dismissal on grounds of insufficiant evidence or for violation of 60 day rule and failed to prepare for trial. Instead he went to Mexico; then at trial used every misinformed excuse that he and the trial court could come up with to extend my stay in jail. I was told to change from my trial suit to my jail cloths before ever even moving from the jail to the courtroom. How can anyone know there wont be a trial before hearing it from a judge? I spoke with my mother the next day, she told me that the attorney Mr. Byrd called her before court and told her there wont be a trial and not to go to court.

SHE WENT WITH my BROTHER to the COURTHOUSE ANYWAY AND TRIAL WAS NOT CONDUCTED. AT THAT POINT IT IS SAFE TO SAY I NEVER HAD AN ATTORNEY, INSTEAD I WAS APOINTED AN ASSISTANT PROSECUTOR to HELP WITH the MALISHES PROSECUTION OF AN INNOCENT VICTIM TO END THIS PORTION OF R.A.P. 10.10 WITA A LIE FROM the PROSECUTOR. V.b. R. 11-19-07 Pg's 21-22 lines 19-3, AND V.b. R. 2-13-08 Pg 190 LINES 2-4. THE PROSECUTOR ASKED FOR A TIME EXTENSION SO HE COULD INTERVIEW WITNESSES. THREE MONTHS LATER, HE STILL HASN'T INTERVIEWED THOSE WITNESSES!

-VIOLATION OF COURT ORDER-

V.b. R. Pg 41 LINES 1-13. I WAS ORDERED TO WESTERN STATE FOR AN EVALUATION AND OF NOW I HAVE NEVER been to WESTERN STATE. V.b. R. Pg 44-45 LINES 1-25 AND 1-16 NOTE LINES 8-11. I NEVER I NEVER WENT TO WESTERN STATE,

V.p. R. 12-18-07 Pgs 49-50 LINES 23-5, QUESTION: HOW CAN A REPORT COME BACK FROM WESTERN STATE IF I'VE NEVER BEEN THERE?

—PROCEDURAL MISCONDUCT—

V.b. R. Pg 50 LINES 20 AND 21 "THE COURT ASSISTANT SUZAN CLARK STILL NEEDS APPOINTMENTS, V.b. R. Pg. 57 LINES 2-8. CLEARLY STATES HER BEING OVER BOOKED WITH APPOINTMENTS, QUESTION: HOW CAN A JUDGE, OR MYSELF BELIEVE SUZAN CLARK COULD PERFORM AS AN OBJECTIVE STANDARD OF REASONABLNESS WITH 20 PREVIOUSLY SCHEDULED TRIALS FOR THE SAME DATE AS MINE? SUZAN CLARK WAS SO OVER BOOKED THAT SHE COULDNT ADIQUITLY PREPARE OR PERFORM MY DEFENSE, RESULTING IN AN UNRELIABLE OR FUNDEMENTALLY UNFAIR OUTCOME OF ALL PROCEEDINGS.

—JUDICIAL MISCONDUCT—

V.b.R. Pg.65 LINES 1-3, "STATEMENT by the COURT SAYING, they CAN DO ANYthing they WANT to DO AND SEE WHAT they HAVE to SAY ABOUT IT LATER". QUESTION! WHY WAS I PRESENTED this type OF ATTITUDE by the COURT, PROSECUTOR, AND my DEFENCE ATTORNEY?

—PROSECUTOR MISCONDUCT—

V.b.R. pg 212-213 LINES 8-25 AND 1-12. HERE the PROSECUTOR is USING his CLOSING ARGUMENT to CHANGE JURY INSTRUCTIONS, #3, to SOMETHING OTHER THAN BEYOND A REASONABLE DOUBT. US. V. BLAKEY 14 F3d 1557 (11TH CIR. 1994), PROSECUTOR MAY NOT MAKE SUGGESTIONS, INSINUATIONS, AND ASSERTIONS, CALCULATED to mislead THE JURY. U.S. V. TAYLOR, 997 F2d 1551 (D.C.CIR. 1993), SULLIVAN V. LOUISIANA, 508 U.S. 124 LEd2d 182, 113 Sct 2078 (1993). CONSTITUT-IONALLY DEFICIENT OF REASONABLE DOUBT, FOR PURPOSES OF PROVING

quilt beyond reasonable doubt, held not amendable to harmless error analysis on appeal, and would always invalidate a conviction. State v. Cage (498 U.S. at 40 quoting (554 So. 2d 39, 41 La. 1989). Focusing on all of the italicized language in the above instruction, the Supreme Court in Cage, held that the instruction was in error, because when read as a whole a jury could have understood the instruction to lower the states burden of proof to something less than beyond a reasonable doubt.

—Court Commissioner—

Lawer client relationship

Ms. Suzan Clark is a commissioner for the court of Clark County, Therefore a clear adverse or pecuniary interest shows a case of conflict / unlawful practice of law, (R.C.W. 2.48.180).

SHE WOULD NOT DO the things I ASKED therefore, I SENT A LETTER to the COURT SAYING, I'm going through TRIAL UNDER DURESS WITHOUT FAIR DEFENCE, V.b.R. Pg. 56 LINES 10-13, AS WITH MR. BYRD I WANTED A motion to Dismiss FOR 60 DAY RULE VIOLATION. THE CLOSEST I GOT to EVER getting the MOTION WAS MS. CLARK RESERVING the Right to move IN that REGARD.

-Missing TRANSCRIPT-

INSTRUCTION to JURY, OPENING STATEMENTS AND A STATEMENT FROM MS. CLARK to the COURT, AT TRIAL is MISSING FROM OFFICIAL TRANSCRIPT. U.S. DIST. Ct. FOR E.d. OF WASH. V. SANDLIN, 12 F3d 861 (9TH CIR, 93), "CANNOT be DISPUTED that EDITING OF AN OFFICIAL TRANSCRIPT WITHOUT CONSENT OF the PARTY'S IS PROHIBITED", SANDLIN @ 7 J. QUAKENBUSH... "THAT SAID... WE DO NOT CONDONE EDITING IN ANY

FORM OF OFFICIAL TRANSCRIPTS,
IN US V. DURHAM 139 F.3d. 1325-1331
"ALTERATION OF APPEAL RECORDS
AFFECTED APPELLANTS SUBSTANTIAL
Rights to EQUITABLE REVIEW. IN
GRIFFIN V. ILLINOIS 251 U.S. 12__,
100 LEd. 891, 76 SCT 585, 55 A.L.R.
1055 (1966) IT WAS WELL ESTABLISHED
THERE CAN BE NO DOUBT THAT THE
STATE MUST PROVIDE AN INDIGENT
DEFENDANT WITH A TRANSCRIPT IS
NEEDED FOR AN EFFECTIVE DEFENCE
OR APPEAL. IN STATE V. TILTON
149 Wn. 2d 775, "IF TRUE RECORD
CANNOT BE PRODUCED, A NEW TRIAL
IS TO BE ORDERED."

INEFFECTIVE ASSISTANCE OF
APPEALANT COUNSEL

JOHNSON V. U.S. 196 F.3d. 802
(7TH CIR. 99) "COUNSEL'S REFUSAL TO
APPEAL JUDGEMENT IS INEFFECTIVE
ASSISTANCE OF COUNSEL". COUNSEL'S
DECISION NOT TO RAISE GUILT
PHASE ISSUES WAS NOT TACTICAL;
AND THAT THE PETITIONER AT ALL

times manifested an intent to pursue an appeal with regards to guilt phase issues; the record discloses non frivalous guilt phase issues which should have been presented in appeal breif.

REQUESTED EVIDENCE

(1) Police audio, video and reports from time of Dispatch to include officers notes. (2) Copy of title used in trial conviction. (3) "Original title/certifcate of ownership from D.M.V., R.C.W. 46.12.181". (4) Notice to the court - needs to be filed, stating, "Official misconduct R.C.W. 9A.80.010" Police officer released evidence to third party / violation of due process. (5) Affidavid from my mother as to the call from Mr. Byrd telling Ms. Wright that there will not be a trial, and not to go to court. She said she and my brother Steven went anyway.

(6) Copy of stolen Vehicle report from D.M.V. (7) Avery Camacho's work schedule from Blockbuster for the year 2007. (8) Statement from security as to what part of the parking lot is under surveilance on date of false theft 8-28-07. (9) Reciept from value motel with date and plate number in my name. (10) Video and audio records of court proceedings start to finish. (11) I'm in request for "Engrossed third substitute House Bill 1001 Chapter 199, Laws of 2007, 60th Legislature. (Auto-Theft) Effective date; 07-22-07" be revised because of being vaguely written in regards to value of property to determan the ~~the~~ statue of the crime under possession of stolen property, false stolen vehicle report V.b.R. 137 lines 1-7, Eugene Camacho is the registered owner.

V.b.R PG. 132-134 LINES 8-23 OFFICER SAID AVERY CAMACHO GAVE HIM PROOF OF REGISTERED OWNERSHIP, AND THEN LEFT DOCUMENT WITH AVERY, STOLEN VEHICLE REPORT WAS THEN FILED. V.b.R. PG. 121 LINES 15-19. AVERY SAID HE SHOWED OFFICER PROOF OF REGISTERED OWNERSHIP AND THAT THE OFFICER TOOK THAT DOCUMENT WITH HIM.

PROCEEDURAL ERROR

V.b.R Pgs. 98-99 LINES 24-6, JUDGE TOLD JURY THAT THEY ARE FREE TO COME AND GO.

AFFIDAVID FOR STATEMENT OF FACT

I JOHN T. HOBBS bought A pick-up FROM AVERY CAMACHO FOR $50.00 CASH AT ALBERTSON'S PARKING LOT ON 8-18-07 ABOUT 9:00 p.m. AVERY GAVE ME THE KEY AND SIGNED OFF THE TITLE, I THEN LEFT ALBERTSON'S PARKING LOT WITH THE PICK-UP. I PARKED IT AT A FRIENDS APARTMENT PARKING SPOT FOR

ABOUT 2-WEEKS. I WAS WORKING AND SAVING MONIES TO PAY FOR LICENSE, TITLE, TAGS, AND INSURANCE. WHEN SHE TOLD ME THAT IT WAS TAGED TO BE TOWED FOR DEAD-TAGS, SO I TOOK IT ACROSS TOWN TO MY MOTHER'S HOUSE. WHERE IT WAS TAGED BY THE POLICE TO BE TOWED FOR DEAD TAGS AGAIN. SO I RENTED A PLACE AT VALUE MOTEL FOR A WEEK IN HOPES OF HAVING ENOUGH MONEY TO PAY FOR EVERYTHING TO MAKE THE TRUCK LEGAL. VALUE MOTEL SAID I COULD PARK THERE AS LONG AS I LISTED THE PLATE # WITH THE RENTAL RECEIPT. WEEK'S UP AND I STILL DON'T HAVE ENOUGH SAVED FOR LEGAL DRIVING. I THEN DRIVE THE PICK-UP TO AND FROM WORK. SLEEPING IN PICK-UP AT FRIENDS SO IT CAN'T BE TOWED, MY NEXT WEEKS PAY IS 9-14-07, THE DAY I DRIVE TO PICK UP MY CHECK THEN CASH IT; FROM THERE I

~~GOT TO~~ GO TO THE SAME ALBERTSONS THAT I BOUGHT THE pick-up truck AT, THERE'S A D.M.V. OFFICE there. ABOUT ONE BLOCK BEFORE I GET THERE, I SEE A LIGHT FLASH IN my MIRROR. SO I LOOK BEHIND ME AND SEE A CAR PULLING OFF TO THE SIDE OF THE ROAD, BEHIND THAT CAR ~~THAT CAR~~ I SEE WHAT LOOKS LIKE A POLICE CAR that is moving AT A HIGH RATE OF SPEED. LIKE THE CAR BEHIND ME, I pull OFF TO THE SIDE OF THE ROAD. THE OFFICER PULLED IN BEHIND ME. He then got OUT OF HIS CAR AND POINTED HIS GUN AT ME, WHEN ANOTHER OFFICER DROVE UP, THEY TOLD ME TO GET OUT OF THE VEHICLE AND GET FACE DOWN ON THE GROUND. I WAS CUFFED, STRIPED OF ALL BELONGINGS FROM my pockets AND THEN PLACED INTO A POLICE CAR. THE OFFICER ASKED ME IF I WANTED TO TALK OR REMAIN SILENT?

I SAID I WOULD TALK, AND HE THEN READ ME MY RIGHTS, AND ASKED ME WHERE I GOT THE TRUCK. I SAID I BOUGHT IT, HE ASKED ME WHO I BOUGHT IT FROM, I SAID I DONT REMEMBER HIS NAME, BUT HE ~~WAS~~ IS A MEXICAN. HE ASKED ME FOR A BILL OF SALE, NOT A SIGNED OFF TITLE. I SAID THE BILL OF SALE IS AT MY FRIENDS HOUSE, HE TOLD ME THE ~~WAS~~ Pickup is STOLEN. I SAID IF I KNEW IT WAS STOLEN, I WOULD NOT HAVE BOUGHT IT. HE SAID YOUR GOING TO JAIL, AND CLOSED THE DOOR. I SAW HIM WALK OVER TO THE CAR BEHIND ME AND GAVE HER THE KEY; HER AND THE OTHER OFFICER WALKED OVER to my pick-up AND SHE WENT to the GLOVE BOX AND PULLED OUT my title, the OFFICER WENT TO THE DRIVERS SIDE AND LOOKED IN. THEN HE WENT BACK TO HIS CAR. SHE GOT IN THE DRIVERS SIDE AND WE ALL DROVE AWAY

LEAVING HER CAR ON THE SIDE OF THE ROAD! I SPENT APPROXIMATELY SIX MONTHS IN THE COUNTY JAIL OF (CLARK), WITH OUT HELP FROM AN ATTORNEY. THEY WOULDNT FILE ANY MOTIONS OR ASK FOR EVIDENCE. I CALLED THE ATTORNEY BYRD AND TOLD HIM THAT THE VALUE OF THE PICK-UP IS DOCUMENTED AT LESS THAN $250.00 DOLLARS AND TO GET OUT OF JAIL I WOULD PLEA TO A MISDIMEANOR, I GET NO DEAL. ~~AND~~ TAKE 17 MONTHS IN PRISON OR YOU WILL GET FIVE YEARS. I SAID NO, AND AT THAT POINT I BECAME A VICTIM OF MALISHES PROSECUTION. IM NOW SERVING 4 YEARS 10 MONTHS, FOR A VEHICLE I BOUGHT THAT WAS VALUED AT $200.00, 10 YEARS AGO AND NOW HAS OVER 250,000 MILES AND HAS BEEN IN A WRECK. WHEN I SPOKE WITH MY APPEAL ATTORNEY SHE SAID SHE WOULD NOT ADDRESS QUILT ISSUES, AND THAT BECAUSE I'm

A FELON I HAVE NO CREDIBILITY. NOW I'M FACED WITH HAVING TO PROVE ALL THIS WRONGFUL ACTION BY THE CAMACHO'S, POLICE, COURT, PROSECUTOR, AND MY PHONY DEFENCE ATTORNEY'S TO THE COURTS BY MYSELF. WHAT I THINK HAPPENED. AVERY CAMACHO SOLD ME THE PICK-UP THAT HE DIDN'T WANT WHICH WAS A GIFT FROM HIS DAD. WHEN HIS PARENTS FOUND IT MISSING AVERY TOLD THEM IT MUST HAVE BEEN STOLEN. HIS PARENTS THEN TOLD HIM TO REPORT IT STOLEN, HE COULD NOT DO THAT BECAUSE I HAD PROOF OF OWNERSHIP / THE TITLE, AND SOME HOW A FALSE REPORT WAS MADE, I WAS ARRESTED AND IN THE U.S., THE EASY WAY TO MAKE IT ALL GO AWAY IS TO WRONGFULLY CONVICT THE FELON

RELIEF REQUESTED

AS I EXHAUST my ADMINASTRATIVE REMEDIES CrR. 7.8 WITH VALID MOTIONS THAT ARE DENIED. I BELIEVE THERE WILL be NO FAIR trial IN CLARK COUNTY, THEREFORE I ASK THAT my CONVICTION BE TERMINATED AND AN ORDER FOR my IMMEDIATE RELEASE BE SUBMITTED.

CLOSING

THANK YOU ALL FOR YOUR TIME WITH THE CAREFULL INSPECTION OF THE RECORDS AND THE DECISION YOU HAVE ALL COME TO WITH the CONSIDERATION, OF PUTTING yourself's IN my POINT OF VIEW

WITH ALL DUE RESPECT TO THE COURT: GOD BLESS,
UNDER THE PENALTY OF PURJERY
TRUTHFULLY; John T. Hobbs 11-13-08

P.S. IF I EVER BUY A VEHICLE AGAIN the TITLE TRANSFER will be DONE AT D.M.V. WITH THE SELLER AND MYSELF AS THE SALE IS MADE.

"LESSON LEARNED"!

FILED
COURT OF APPEALS
DIVISION II

08 NOV 17 AM 11:36

STATE OF WASHINGTON
BY DEPUTY

STATE OF WASHINGTON COURT OF APPEALS
DIVISION II

JOHN T. HOBBS #815136) NUMBER # 37471-4-11
-PETITIONER-) CERTIFICATE
-V-) OF SERVICE
STATE OF WASHINGTON)
DIVISION II)
RESPONDENT)

CERTIFICATE OF MAILING
I certify that I mailed
1 copies of SAG
brief to L Talbert
& M Lingie
11/18/08 [illegible]
Date Signed

I JOHN T. HOBBS, IN THE ABOVE ENTITLED CAUSE, UNDER THE PENALTY OF PURJURY DO HEREBY CERTIFY THAT ON THE 11-13-08 I SENT R.A.P. 10.10 FOR REVIEW. TO THE COURT OF APPEALS DIVISION II, 950 BROADWAY STE, 300 TACOMA, WASH. 98402-3694.
BY PROCESSING AS LEGAL MAIL WITH FIRST CLASS POSTAGE AFFIXED THERETO, AT THE AIRWAY HEIGHTS CORRECTION CENTER P.O. BOX 2019 AIRWAY HEIGHTS, WASH, 99001-2019 RETURN RECEIPT REQUESTED, THANK YOU

HAND WRITTEN
C.C.

RESPECTFULLY SUBMITTED
X John T. Hobbs 11-13-08
PETITIONER